

ORIGINAL



0000113259

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

Arizona Corporation Commission

DOCKETED

JUL 27 2010

**COMMISSIONERS**

KRISTIN K. MAYES - Chairman

GARY PIERCE

PAUL NEWMAN

SANDRA D. KENNEDY

BOB STUMP

2010 JUL 27 P 2:50

AZ CORP COMMISSION  
DOCKET CONTROL

DOCKETED BY

*[Signature]*

IN THE MATTER OF AUTOTEL'S BONA FIDE  
REQUEST FOR TERMINATION OF EXEMPTION  
PURSUANT TO SECTION 251(f)(1)(B) OF THE  
TELECOMMUNICATIONS ACT AND TO  
PROVIDE COMMERCIAL MOBILE RADIO  
SERVICES IN ARIZONA.

DOCKET NO. T-03214A-10-0051

**STAFF'S RESPONSE TO AUTOTEL'S  
REQUEST AND PETITION FOR  
ARBITRATION**

On February 9, 2010, Autotel filed a Bona Fide Request for Termination of the Rural Telephone Company Exemption contained in § 251(f) of the Telecommunications Act of 1996 ("1996 Act"). Autotel desires to enter into a new interconnection agreement with Frontier Communications Corporation ("Frontier") to provide Commercial Mobile Radio Service ("CMRS") in Arizona. On June 30, 2010 and July 7, 2010, Autotel filed a Petition for Arbitration under § 252 of the 1996 Act. By Procedural Order dated July 13, 2010, the Hearing Division ordered Staff and Frontier to file a Response by July 27, 2010. Staff believes that Autotel's Request for Exemption and Petition for Arbitration raises issues that would best be aired in a Procedural Conference.

The Commission conducted an earlier arbitration involving Citizens (now Frontier) at the request of Autotel in 2004. Autotel refused to sign the agreement prepared by Citizens incorporating the terms of the arbitration as required by Commission Decision No. 67273. Autotel instead filed a lawsuit in Federal court alleging that the terms of the arbitrated agreement violated the 1996 Act. That lawsuit was subsequently dismissed. Yet to the best of Staff's knowledge, Autotel has never signed the original arbitrated agreement or provided service pursuant to that agreement. Autotel was subsequently admonished by the Commission for "its waste of administrative and judicial resources in filing [another] ... Notice while its Federal Complaint remains pending and while it has failed to make use of its Approved ICA." Decision No. 68605. It is not clear why Autotel is now requesting

1 another arbitration proceeding since Staff does not know if Autotel is even licensed to provide service  
2 in Frontier's service territories or whether Autotel has any real intent to provide service.

3 Additionally, Frontier surely has entered into interconnection agreements with other wireless  
4 carriers to-date. It is unclear whether Frontier has offered Autotel the same terms and conditions  
5 agreed to by other wireless providers and on what grounds Autotel may have rejected those terms and  
6 conditions.

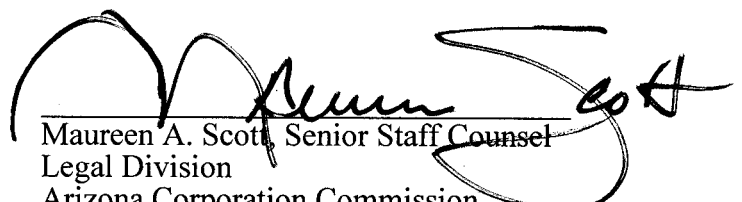
7 On a related issue, Frontier apparently advised Autotel that it has not formally invoked its  
8 rights as a rural carrier under §§ 251 and 252 of the 1996 Act. Therefore, if this is correct, the rural  
9 exemption process would not apply and the Request of Autotel in that regard would be moot and  
10 unnecessary.

11 Finally, the 1996 Act requires that the issues in dispute be set forth with specificity in the  
12 arbitration petition. Autotel has failed to comply with this requirement. Simply attaching a proposed  
13 interconnection agreement as Autotel has done, does not comply with this requirement in Staff's  
14 opinion.

15 Staff believes that some discussion at a Procedural Conference regarding the above issues  
16 would be beneficial in developing a more complete record to be used in determining whether  
17 Autotel's Request and Petition should be dismissed or whether a procedural schedule should be  
18 established.

19 WHEREFORE, for the reasons given above, Staff respectfully requests that the Hearing  
20 Division hold a Procedural Conference to discuss the issues raised by Autotel in its Request and  
21 Petition.

22 RESPECTFULLY SUBMITTED this 27<sup>th</sup> day of July 2010.  
23  
24

25   
26 Maureen A. Scott, Senior Staff Counsel  
27 Legal Division  
28 Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007  
(602) 542-3402

1 Original and thirteen (13) copies  
2 of the foregoing filed this  
27<sup>th</sup> day of July 2010 with:

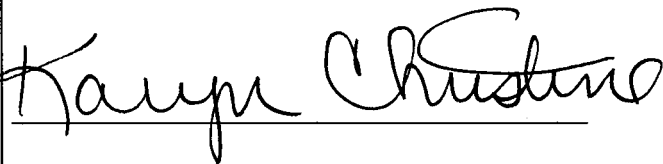
3 Docket Control  
4 Arizona Corporation Commission  
1200 West Washington Street  
5 Phoenix, Arizona 85007

6 Copies of the foregoing mailed this  
27<sup>th</sup> day of July 2010 to:

7 Mr. Richard L. Oberdorfer  
8 Autotel  
Post Office Box 1618  
9 Bend, Oregon 97709

10 Ms. Jenny Smith  
Manager, Interconnection Services  
11 Frontier Communications Corporation  
9260 East Stockton Boulevard  
12 Elk Grove, California 95624

13 Mr. Curt Huttzell  
Post Office Box 708970  
14 Sandy, Utah 84070

15  
16   
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28